



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,769	11/24/2003	Michael Garman	HAMBE 135	4908
31704	7590	07/28/2008		
Thomas & Raring, P.C. 536 GRANITE AVENUE RICHMOND, VA 23226			EXAMINER ALEXANDER, REGINALD	
			ART UNIT 3742	PAPER NUMBER
			MAIL DATE 07/28/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL GARMAN
and
STEPHEN C. WILLIAMSON,
Appellants

Appeal 2007-3416
Application 10/720,769¹
Technology Center 3700

Decided: July 28, 2008

Before ADRIENE LEPIANE HANLON, CAROL A. SPIEGEL, and
LINDA M. GAUDETTE, *Administrative Patent Judges*.

SPIEGEL, *Administrative Patent Judge*.

DECISION ON APPEAL

I. Statement of the Case

This is an appeal under 35 U.S.C. § 134 from the final rejection of all the pending claims, claims 1-11. We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

¹ Application 10/720,769 was filed 24 November 2003. The real party in interest is said to be Hamilton Beach/Proctor-Silex, Inc. (Appellants' Brief filed 27 November 2006 ("Br.") at 1).

The subject matter on appeal is directed to a dispenser actuator comprising a plug having a stem and a seal ring, wherein the bottom of the stem has a substantially inverted conical shape, and a hot beverage maker comprising the dispenser actuator. Claim 7 is illustrative and reads (Br. 15):

7. A dispenser actuator for a hot beverage maker, the actuator comprising a plug adapted to releasably close an outlet port of a hot beverage maker,

the plug comprising a stem and a seal ring, wherein the bottom of the stem has a substantially inverted conical shape.

The Examiner rejected claims 1-11 as unpatentable under 35 U.S.C. § 103(a) over the combined teachings of Weidman² and Lee³ (FR⁴ 2; Ans.⁵ 3).

The dispositive issue is whether Lee discloses a dispenser actuator comprising a plug having a stem and a seal ring, wherein the bottom of the stem has a substantially inverted conical shape.

II. Discussion

A claimed invention is not patentable if its subject matter would have been obvious to a person of ordinary skill in the art. 35 U.S.C. § 103(a); *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 1734 (2007); *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 3 (1966). Facts relevant to a determination of obviousness include (1) the scope and content of the prior

² U.S. Patent 5,560,284, "Automatic Drip Brewing Urn," issued 1 October 1996, to Craig C. Weidman et al. ("Weidman").

³ U.S. Patent 5,857,596, "Water Dispenser of a Refrigerator," issued 12 January 1999 to Yong-Kweon Lee ("Lee").

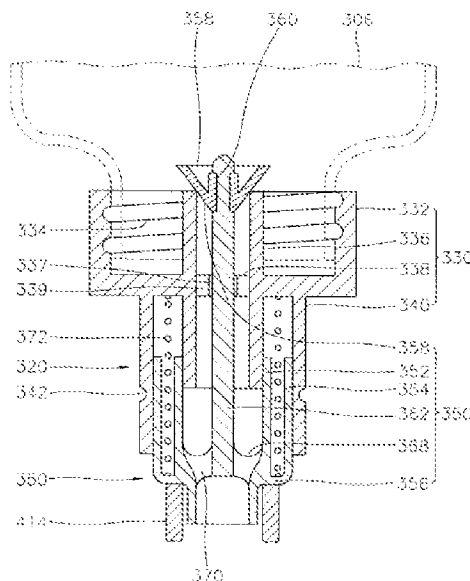
⁴ Final Office Action mailed March 29, 2006.

⁵ Examiner's Answer mailed 7 March 2007 ("Ans.").

art, (2) any differences between the claimed invention and the prior art, (3) the level of ordinary skill in the art and (4) relevant objective evidence of obviousness. *KSR*, 127 S.Ct. at 1734; *Graham*, 383 U.S. at 17-18. All claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974).

The Examiner found "Lee discloses a push button dispenser actuator including a plug 350 comprising a stem 362 and a seal ring 358 wherein the lower portion of the stem has a substantially inverted conical shape" (FR 2; Ans. 3).

Lee discloses a water dispenser comprising a valve assembly for opening and closing an outlet conduit (Lee 3:25-59). Figure 4 of Lee is an enlarged sectional view of a valve assembly of one embodiment of the water dispenser (Lee 4:55-56). Figure 4 illustrates a valve assembly including a valve cock 350 comprising a valve rod 362, packing member 358, a fixing rib 368, and an exhausting hole 370 (Lee 5:53-67). Lee Figure 4 is reproduced below:



{Figure 4 of Lee shows an enlarged cross-sectional area of a valve assembly of one embodiment of a water dispenser.}

As pointed out by Appellants (Br. 11), valve rod 362 of Figure 4 of Lee "has a flat bottom not an inverted conical shape as is required in the pending claims." The Examiner replied, ". . . Lee discloses a valve rod 362, which is equivalent to Applicant's broad recitation of a 'stem.' The stem having a lower portion which includes apertures 368, 370 having a 'substantially' inverted conical shape" (Ans. 4-5). We disagree. We find that the packing member 358 at the top of valve rod 362 of Figure 3 of Lee has a substantially inverted conical shape. We further find the fixing rib 368 and exhausting hole 370 at the bottom of valve rod 362 do not have a substantially inverted conical shape. Thus, Lee does not disclose a dispenser actuator comprising a plug having a stem with a substantially inverted conical shaped bottom.

We also find that Weidman does not teach or suggest a dispenser actuator comprising a plug having a stem and a seal ring, wherein the bottom of the stem has a substantially inverted conical shape.

Since applied prior art does not teach or suggest a dispenser actuator comprising a plug having a stem and a seal ring, wherein the bottom of the stem has a substantially inverted conical shape required by all the claims on appeal, we reverse the rejection of claims 1-11 under § 103 over Weidman and Lee.

It is unnecessary to consider Appellants' argument that neither Weidman nor Lee discloses a removable brewed beverage tank as required by claims 1-6.

Appeal 2007-3416
Application 10/720,769

III. Order

Upon consideration of the record, and for the reasons given, it is

ORDERED that the decision of the Examiner rejecting claims 1-11 as unpatentable under 35 U.S.C. § 103(a) over Weidman in view of Lee is REVERSED.

REVERSED

SD

John H. Thomas, P.C.
THOMAS & RARING P.C.
536 Granite Avenue
Richmond, VA 23226